



UP1
(4)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

Civil Revision No. 69 / 2005 SINGLE BENCH

Petitioners :
Non-applicant No.1
(Driver)

1. **Bharat Kumar** S/o, Shri Banshi Lal Vishwakaram, aged about 39 years, Occupation _ Driver , R/o. Sevtapara , Dongargaon Distt. Rajnandgaon (C.G.)

Non-applicant No.2.
(Owner)

2. **Kalim Bhai** S/o Sheikh Rahim Uddin, aged about 38 years, R/o Bus Stand Rajnandgaon (C.G.)

P.R. No. 1370/09

Presented by Sri. Pankaj Khandelwal

dated 10.05.05

Versus

Respondents/

1. **Khilanand Thakur @ Hiranand** S/o Johan Lal aged about 32 years, R/o Village Jamadi, P.O. Aundhi, Tah, Manpur, Distt. Rajnandgaon(C.G.)

Non-Applicant No. 3
(Driver)

2. **Ramesh @ Suresh Bhuarya** S/o. Itwari Ram , aged about 32 years, Khushabu Transport R/o. Village Kodemarra P.O. Dangarh , Tah, Ambagarh Chowki , Distt.Rajnandgaon (C.G.)

Non-Applicant No. 4
(Owner)

3. **Pankaj Khandelwal** S/o Madan Lal Khandelwal , aged about 28 years , Truck owner No. CG-07 ZC-3347, R/o.Ambagarh Chowki Distt.Rajnandgaon (C.G.)

Non-Applicant No. 5

4. **National Insurance Co. Ltd.** through , Branch Manager, Kailash Nagar , Rajnandgaon (C.G.)

Civil Revision Under Section 115 of Code of Civil Procedure 1908

आदेश पत्रक

मामला क्रमांक CR 69/05 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>3.12.2005:</u> Shri Anand Shukla learned counsel for the applicant. Heard. The applicant has preferred this revision petition under section 115 of the Code of Civil Procedure against the award dated 3.2.2005 passed by First Motor Accident Claims Tribunal Rajnandgaon in Claim Case No. 40/2003 by which a sum of Rs. 5000/- was awarded against the petitioner and in favour of non applicant No.1. Learned counsel for the applicant submits that the non -applicant No.1 sustained injuries because of collision between two vehicles. However, learned Claims Tribunal has fastened the liability of payment of compensation to the applicant, the owner of the mini bus alone and has absolved non applicants 3 to 5 i.e. driver, owner and the insurance company of the truck which was also involved in the said accident. The above finding is contrary to the evidence available on record and therefore, learned Claims Tribunal has committed material illegality in exercise of its jurisdiction and therefore the impugned award is liable to be set aside and the petitioner deserves to be absolved from the liability of payment of compensation. The award is for Rs. 5000/- in favour of the non-applicant No.1. Learned Tribunal after discussing the material available on record has arrived at the conclusion that the above incident had taken place because	

- 2

आदेश पत्रक

मामला क्रमांक CR 69/05 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	of the rash and negligent act of applicant No.1 and accordingly the petitioners have been held responsible for payment of compensation to the non-applicant No.1 herein. The finding of the Claims Tribunal is a finding of fact which cannot be interfered with in exercise of jurisdiction under section 115 of the CPC. Accordingly, the revision is dismissed.	

N

Sd/-
Dhirendra Mishra
Judge